

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WALTER E. MARTIN, SR., }  
v. Plaintiff, } Civil Action No. 05-224 Erie  
STAFF/FOOD SERVICE, }  
Defendant. }

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on August 9, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on January 27, 2006, recommended that the Defendant's motion [Doc. # 4] to dismiss be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SCI Graterford, where he is incarcerated, and on the Defendant. No objections were filed. After de novo review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 24<sup>th</sup> Day of February, 2006;

IT IS HEREBY ORDERED that the Defendant's motion [Doc. # 4] to dismiss is GRANTED and the complaint is DISMISSED.

The report and recommendation of Magistrate Judge Baxter, dated January 27, 2006, is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin  
United States District Judge

cc: all parties of record  
U.S. Magistrate Judge Baxter